

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services – Treasuries and Accounts Department – Sri S.Mahaboob Saheb, Superintendent (Retd.) - Disciplinary action for non-observation of Government instructions while sanctioning of marriage advances to the Police personnel while he was working at O/o the Commissioner of Police, Hyderabad – Awarded Punishment - Implementation of the orders of the Hon'ble Supreme Court, dated:13-01-2011 in Civil Appeal No.1143/2006 arising in SLP (C) No.14131-14132/2004– Revision of punishment - Orders – Issued.

FINANCE (ADMN.I.VIG.) DEPARTMENT

G.O.Rt.No. 3055

Dated: 01-08-2011.

Read the following:-

1. G.O.Rt.No.1350, Finance (Admn.I.Vig) Deptt. dt.14.7.1999.
2. A.P.A.T. orders in O.A.No.5189/1999 dt.8.2.2001.
3. A.P.High Court Orders in W.P.No.6517/2001 dt.28.11.2003.
4. Hon'ble Supreme Court orders in SLP No.14131/04 dt.09.05.2005.
5. Special Officer, O/o the Advocate on Record, A.P. Bhavan, New Delhi Letter No.F&P230/APLC/JA/2004, dated 19-6-2005.
6. G.O.Rt.No.4512, Finance (Admn.I.Vig) Department, dated 29-12-2005.
7. Hon'ble Supreme Court of India Order in SLP(C) No.14131 14132/2004,dt: 13-01-2011.
8. Government Lr.No.14594/157/A2/Admn.I.Vig/2001,dt:31-03-2011 addressed to the Secretary, APPSC, Hyderabad.
9. APPSC Lr.No.639/RT-1/3/2011,dt:22-06-2011.

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ORDER:-

In the G.O. 1st read above, Government had imposed a punishment of 100% cut in monthly pension on Sri S.Mahaboob Saheb, Superintendent (Retd.), for his involvement in the case of irregular sanction of Marriage Advances to a tune of Rs.9.73 crores sanctioned to 4,940 employees of Hyderabad City Police during the year 1994-1995 against the budget amount of Rs.30,000/- allotted for the year 1994-1995 while he was working in the Accounts Branch at O/o Commissioner of Police, Hyderabad.

2. Aggrieved by the orders of Government, Sri S.Mahaboob Saheb, Superintendent.(Retd) filed an O.A.No.5189/1999 before Hon'ble A.P. Administrative Tribunal. The Hon'ble A.P.A.T. in their order dated 8.2.2001 has dismissed the O.A. duly upholding the impugned order wherein punishment was imposed by the Government.

3. Aggrieved by the above orders of Hon'ble APAT, Sri S.Mahaboob Saheb, Superintendent (Retd.) filed a W.P. No. 6517/2001 before Hon'ble High Court of A.P. to quash the same as being arbitrary and contrary to Rule 20(4) and (5) of the A.P. Civil Services (CCA) Rules, 1991 and decisions of the Hon'ble Supreme Court in AIR 1971 SC 1409 and 1996 (9) SCC 395 and consequently direct the respondents to sanction full pension to him for which he is eligible under A.P. Revised Pension Rules, 1980.

4. The Hon'ble High Court, on the argument of the counsel for the petitioners, without going into the merits of the case, based on the technical point that the sanction for disciplinary proceedings and Articles of charges were not issued as G.O.Ms. and G.O.Rt. respectively as stipulated under Rule 9 of A.P. Revised Pension Rules in respect of pensioners, while dismissing the W.P.No. 6193/2001

and W.P.No.6517/2007 filed by Sri SMI Huda, A.A.O. (Retd.) and Sri S.Mahaboob Saheb, Superintendent (Retd.) vide their common order dated 28-11-2003 held that:

“Admittedly in the instant case the charge memos were issued by the Secretary to Government and what is contemplated under Rule 9 of the Rules is that the departmental proceedings, if not instituted while Government service can be instituted after retirement or during reemployment service with the sanction of the Government. The Government also issued Memo. Dated 24-05-1994 giving various directors as to how such power can be exercised under Rule 9(2) (b) of the Rules. The proforma stipulated with the regard to the sanction reads thus: (here proforma proceedings under Rule 9 of A.P. Revised Pension Rules, 1980) From the above proforma it is clear that the Government is the competent authority to initiate departmental proceedings in respect of the employees who are retired from service, but while issuing the charge sheet the necessary sanction of the Governor is essential. Obviously in the instant case, the Secretary to Government issued the charge memos, which does not confirm to the recruitment of the provisions and also the instructions contained in Government Memo. Dated 24-05-1994. Therefore, it is not open for the Secretary to Government to issue charge memos and it is for the Government to issue the charge memos in the name of Governor by way of G.O.Rt. and in that regard sanction is required from the Governor by way of G.O.Ms. Under those circumstances we are in agreement with the contention raised by the learned counsel for the petitioners on a preliminary issue. In view of the above, the very initiation of the proceedings are illegal and without jurisdiction. Accordingly we set aside the orders of the Tribunal and also the Government Memo issued on 25-07-1997 and consequently we hold that 100% cut in the pension of the petitioners is illegal. In the result, the Writ Petitions are allowed. No costs”

5. Government, in consultation with the then learned Advocate General have filed S.L.P.Nos. 14131-14132 of 2004, before Hon’ble Supreme Court of India against the above common order passed by the Hon’ble High Court in W.P.No. 6193/2001 and W.P.No.6517/2001 filed by Sri SMI Huda, A.A.O. (Retd.) and Sri S.Mahaboob Saheb, Superintendent (Retd.).

6. In respect of Sri T.Venkata Rao, Accounts Officer (Retd.), who was also involved in the case, Government have revised the punishment already awarded on him and imposed a punishment withholding 10% of pension for a period of (5) years on dismissal of the SLP No.14128/04 filed by the Government against orders of the Hon’ble A.P. High Court in W.P.No.3323 of 2001, vide G.O.Rt.No.4512, Finance (Admn.I.Vig) Department, dated 29-12-2005.

7. The Hon’ble Supreme Court of India in their order dt:13-01-2011, remitted the matter to the Government of Andhra Pradesh to consider the case of the respondents in the light of G.O.Rt.No.4512, Dated 29-12-2005 relating to the case of Sri T.Venkata Rao while substituting the order passed by the Andhra Pradesh High Court.

8. Accordingly, Government have reviewed the case with reference to the orders of Hon’ble apex court in SLP (C) No.14131 -14132/2004,dt:13-01-2011 and came to a provisional decision to modify the punishment awarded on Sri S.Mahaboob Saheb, Superintendent (Retd) from 100% cut in pension to 10% cut in pension for (5) years under Rule 9 of A.P. Revised Pension Rules, 1980 and referred the matter to the Andhra Pradesh Public Service Commission, Hyderabad for their concurrence vide reference 8th read above.

9. The A.P. Public Service Commission, Hyderabad in their letter 9th read above, have concurred with the proposal of the Government for imposition of a punishment of withholding of 10% pension for a period of 5 years on the Charged Officer Sri S.Mahaboob Saheb, Superintendent (Retd) under Rule 9 of A.P. Revised Pension Rules, 1980.

10. Government accordingly, hereby order to revise the punishment orders issued in the G.O.1st read above to that of withholding of 10% of pension for a period of 5 years on the Charged Officer, Sri S.Mahaboob Saheb, Superintendent (Retd) under Rule 9 of A.P. Revised Pension Rules, 1980.

11. The Director of Treasuries and Accounts, Hyderabad shall take necessary further action in the matter accordingly.

12. The G.O. is available on Internet and can be accessed at the address

<http://www.goir.ap.gov.in>.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**RANJEEV R. ACHARYA
PRINCIPAL SECRETARY TO GOVERNMENT (FP)**

To

The individual through the Director of Treasuries & Accounts, A.P., Hyderabad.

The Director of Treasuries & Accounts, A.P., Hyderabad.

Copy to:

The Accountant General, A.P., Hyderabad.

The A.P.Public Service Commission, Hyderabad.

SF/SC.

// FORWARDED BY ORDER //

SECTION OFFICER